

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,  
PLAINTIFF

VS.

TIMOTHY CALLAHAN, FRANCIS M.  
ROACHE, PAUL MURPHY, RICHARD  
WALSH, AND THE CITY OF BOSTON,  
DEFENDANTS

C.A. NO. 04-11193NG

ASSENTED TO MOTION TO EXTEND SCHEDULING ORDER

The defendants, City of Boston, Francis M. Roache, Timothy Callahan, Richard Walsh, and Estate of Paul Murphy, hereby jointly move the Court to extend the scheduling order in the above-captioned matter. In support of this motion, the defendants' state that the plaintiff's assent to the extensions of time requested below but disagree on the reasons therefore. In further support thereof, the defendants state the following:

1. Deposition discovery was delayed for an extended period of time while awaiting disclosure of the Suffolk County District Attorney's Homicide file in Commonwealth v. Shawn Drumgold.
2. Upon receipt of Suffolk County District Attorney's file, the parties were able to start deposing numerous witnesses. In this matter, the majority, if not all, civilian witnesses were extremely reluctant and less than cooperative which led to various problems with scheduling depositions. For instance, various witnesses after coordinating depositions within a day of their scheduled deposition requested additional time to obtain counsel. Furthermore, the subject matter of this litigation involves an incident which occurred in 1988, approximately eighteen years ago, and numerous witnesses have moved numerous times since then and have been difficult to locate. The following examples of various difficulties with witnesses show the challenge all counsel of record have had throughout the discovery period.
3. The deposition of Tracie Peaks was initially noticed on January 3, 2006. Due to scheduling conflicts, Ms. Peaks' deposition was re-noticed on January 24, 2006; and February 16, 2006. Ms. Peaks' then retained counsel, and as such her deposition was further re-noticed on March 1, 2006; April 3, 2006; and May 3, 2006. Ms. Peaks has given one day of deposition testimony, and due to

scheduling conflicts amongst the attorneys, her continued deposition has not yet been rescheduled.

4. The deposition of Rickey Evans was initially noticed on January 30, 2006. Due to scheduling conflicts, Mr. Evans' deposition was re-noticed on March 23, 2006. Mr. Evans then retained counsel and his deposition was further re-noticed on April 11, 2006. Mr. Evans' deposition is tentatively scheduled to take place on June 26, 2006 and July 10, 2006.
5. The deposition of Olisa Graham was initially noticed on January 30, 2006. Due to scheduling conflicts, Ms. Graham's deposition was re-noticed on March 7, 2006 and April 4, 2006. Ms. Graham has given one day of testimony and failed to appear at her continued deposition on June 16, 2006.
6. Due to scheduling conflicts as a result of trial schedules and the availability of witnesses, the discovery and depositions in this matter have not been completed. The parties have conducted extensive discovery to date and have been diligent in their efforts to comply with the court's initial scheduling order. However, due to matters outside the control of the parties to this litigation, discovery has not been completed and extensive additional depositions must be completed by the parties in this matter.
7. The parties submit that the contents of additional discovery may have an impact on the potential resolution of this claim;
8. All parties agree that an extension of the discovery deadlines will assist in either resolving this matter or tailoring the issues of this claim for trial; and
9. All counsel, join in, and have assented to, the request for extension of time. However, the parties request different deadlines for the filing of summary judgment.

The Proposed extended tracking order is as follows:

- a. Discovery completed on or before September 30, 2006;
- b. Plaintiff's Expert Disclosures to be submitted on or before September 1, 2006; and
- c. Defendant's Expert Disclosures to be submitted on or before September 30, 2006.
- d. Expert Depositions completed on or before October 15, 2006.
- e. Defendants request Summary Judgment be filed on or before December 1, 2006 and plaintiff requests Summary Judgment to be filed on or before November 15, 2006..

WHEREFORE, the parties respectfully request that the Court enter an Order incorporating the above-proposed extended scheduling order in this case.

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